



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

DEEDS—EXCEPTIONS—RESERVATIONS—ABANDONMENT OF RIGHT OF WAY—REVERSION—EFFECT.—M. conveyed a railroad right of way through her quarter section of land, the deed providing that if the premises were not used for railroad purposes they should revert to M. Subsequently she conveyed the said quarter section to S. by deed—"excepting a strip of land one hundred (100) feet wide heretofore deeded to the Iowa Central Railroad Company." *Held*, that the reversionary interest in such right of way never passed out of M., so that on abandonment of the right of way it reverted to her and her heirs, but not to the heirs of S. *Spencer v. Wabash R. Co.* (1906), — Ia. —, 109 N. W. Rep. 453.

The court stands three to two upon the two questions of the case. The first question is one of construction. The majority hold that by the first deed the railroad company received a fee upon condition, and that by the second deed this strip of land was excepted and also the grantor's reversion provided for in the first deed. They say, "This is definite and certain, and under the facts can not be treated simply as an attempt to limit the covenants of warranty." This construction seems to be according to the legal import of the terms used. See *Munn v. Worrall*, 53 N. Y. 44; *Umschied v. Scholz*, 84 Tex. 265; *Rushton v. Hallett*, 8 Utah, 277; cited by the court, also *Reynolds v. Gaertner*, 117 Mich. 532. The minority are of the opinion that a mere easement was conveyed by the first deed, and that the second deed only purports to except such as was conveyed by the first; that the second deed vests in S. all the right and title which remained in the grantor. Hence when the right of way was lost by abandonment, it inured to the benefit of the grantee. The second question is as to the force of the provision of the code § 2015, that if a railway shall not be operated for eight years, the right of way, including the road bed, shall revert to the "owner of the land from which said right of way was taken." The majority say to hold that this statute applies in this case "would be to take away from everyone the right to make contracts with railway companies relating to the reversion for non-user of the rights of way." *Barlow v. C. R. I. & P. R. R. Co.*, 29 Iowa, 276; *Noll v. Dubuque B. & M. R. Co.*, 32 Iowa, 66; *McClain v. C. R. I. & P. R. R. Co.*, 90 Iowa, 646; *Gill v. C. & N. W. R. R. Co.*, 117 Iowa, 278, 90 N. W. 606. It would seem that these cases settle the rule, in Iowa, to be that this statute does not apply when there is an express provision of reverter, in case of abandonment, made by the parties. It would seem that the minority were wrong in their opinion that the statute would apply. Evidently the majority did not consider that *Remney v. The Iowa Central R. R. Co.*, 116 Iowa, 133, and *Smith v. Hall*, 103 Iowa, 95, were overruled, as did the minority, as they made no reference to these cases. In these cases no express reservation was made, as in this case.

EMINENT DOMAIN—CEMETERIES.—In a proceeding by a railroad company to condemn a right of way through lands of a cemetery company, whose charter provides that such lands must be situated within a certain distance of cities of a designated population, and be used as a cemetery and burying ground forever, and a statute also authorizes railroad companies to condemn the property and rights of private corporations for public purposes, *held*, the